

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

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| In the Matter of                    | ) |                       |
|                                     | ) |                       |
| INMARSAT VENTURES LTD.              | ) |                       |
|                                     | ) | SAT-MS-20000808-00119 |
| Request for Extension of Time Under | ) |                       |
| Section 621(5) of the ORBIT Act     | ) |                       |
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**MEMORANDUM OPINION AND ORDER**

**Adopted: September 28, 2000**

**Released: October 3, 2000**

By the Commission:

1. Inmarsat Ventures Ltd. ("Inmarsat") requests a nine-month extension of the October 1, 2000, deadline set forth in Section 621(5)(A)(ii) of the Open-Market Reorganization for the Betterment of International Telecommunications Act (the "ORBIT Act")<sup>1</sup> to conduct an initial public offering ("IPO"). Inmarsat was originally created as an intergovernmental satellite organization ("IGO") to provide mobile satellite communications. It privatized on April 15, 1999 as a stock corporation of the United Kingdom.<sup>2</sup>

2. The ORBIT Act establishes criteria for Commission review of applications to serve the U.S. market by "successor entities" of INTELSAT and Inmarsat. As an entity created as the result of the privatization of Inmarsat, Inmarsat Ventures Ltd., constitutes a "successor entity" under the ORBIT Act.<sup>3</sup> It therefore is subject to the requirement in Section 621(5)(A)(ii) that it conduct an IPO on or about October 1, 2000, unless the Commission extends this deadline as provided in this section.<sup>4</sup> Inmarsat requests that the deadline be extended to July 1, 2001.

3. The Commission placed Inmarsat's extension request on public notice on August 16, 2000.<sup>5</sup> Lockheed Martin Global Telecommunications LLC ("LMGT"), Stratos Mobile Networks (USA)

<sup>1</sup> ORBIT Act, Pub. L. 106-180, 114 Stat. 48 (2000). *See also* Communications Satellite Act of 1962, as amended, 47 U.S.C. §§ 701 *et. seq.*

<sup>2</sup> *See* Report of the Twelfth Session of the Inmarsat Assembly of Parties, Assembly/12/Report (May 8, 1998); Report of the Thirteenth (Extraordinary) Session of the Assembly of Parties, Assembly/13/Report (October 8, 1998).

<sup>3</sup> *See* Pub. L. 106-180, § 681(a)(7).

<sup>4</sup> Pub. L. 106-180, § 621(5)(A)(ii).

<sup>5</sup> Public Notice Report No. SAT-00053, August 16, 2000.

(“Stratos Mobile”), and MarineSat Communications Network, Inc. d/b/a/ Stratos Communications (“Stratos Communications”) (collectively “Stratos”) filed comments in support of Inmarsat’s request.<sup>6</sup> Motient Services Inc. (“Motient”) filed comments opposing the request for extension.<sup>7</sup>

4. In support of its request for an extension of the IPO deadline, Inmarsat asserts that it “has taken significant steps to ensure a successful IPO at the earliest possible date,” including: (1) selecting a global coordinator and counsel for the U.S. and U.K. listings; and (2) holding its formal organizational meeting where it (a) established various IPO preparatory working groups; and (b) began preparing the U.S. prospectus and U.K. listing of particulars. Inmarsat further states that a successful IPO cannot be accomplished “until it substantially completes a sufficient portion of its internal reorganization and business development tasks.”<sup>8</sup> Inmarsat states that “adequately preparing an IPO is a complex and time-consuming process involving (1) internal preparations, (2) legal and regulatory processing, and (3) marketing.”<sup>9</sup> In addition, Inmarsat states that it must substantially complete internal reorganization and business development in order to make the IPO attractive to investors.<sup>10</sup> Inmarsat’s global coordinator, Morgan Stanley Dean Witter (“Morgan Stanley”), advises Inmarsat not to “complete the IPO by October 1, 2000, given the many steps still necessary to meet the legal and regulatory requirements in the United States and the United Kingdom.”<sup>11</sup> Morgan Stanley believes that it will take up to six months to complete just the first two of these three steps.<sup>12</sup>

5. Motient contends that Inmarsat has failed to justify its request for extension.<sup>13</sup> Motient states that Inmarsat’s reliance on the need to restructure and build a business attractive to investors is inadequate because it provides no reasons why these tasks were not accomplished earlier.<sup>14</sup> In addition, Motient’s asserts that should the Commission grant this extension, we should deny any application from Inmarsat, or any entity proposing access to Inmarsat to provide domestic mobile satellite service (“MSS”), until Inmarsat conducts an IPO and meets the other ORBIT Act privatization criteria.<sup>15</sup> In this regard, it asserts that Congress sought to ensure the dilution of Inmarsat before it enters new markets and, absent

<sup>6</sup> Comments of Lockheed Martin Global Telecommunicaitons, August 25, 2000 (“Lockheed Martin Comments”); Comments of Stratos Mobile Networks (USA) and MarineSat Communications Network, Augusts 25, 2000 (“Stratos Comments”); Reply of Lockheed Martin Global Telecommunicaitons, September 1, 2000 (“Lockheed Martin Reply”); Reply of Stratos Mobile Networks (USA) and MarineSat Communications Network, Augusts 25, 2000 (“Stratos Reply”).

<sup>7</sup> Opposition of Motient Services Inc., August 25, 2000 (“Motient Opposition”); Reply of Motient Services Inc., September 1, 2000 (“Motient Opposition”).

<sup>8</sup> Inmarsat Extension Request at 3.

<sup>9</sup> *Id.*, Attachment A at 1.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 3 and Attachment A at 1.

<sup>12</sup> *Id.*

<sup>13</sup> Motient Opposition at 1.

<sup>14</sup> *Id.* at 5.

<sup>15</sup> *Id.* at 6-8.

dilution, Inmarsat effectively remains an IGO controlled by the former Signatories.<sup>16</sup>

## DISCUSSION

6. Section 621(5)(A)(ii) of the ORBIT Act provides that:

(A) An initial public offering of securities of any successor entity or separated entity . . . (ii) shall be conducted, for the successor entities of Inmarsat, on or about October 1, 2000, except that the Commission may extend this deadline in consideration of market conditions and relevant business factors relating to the timing of an initial public offering, but to no later than December 31, 2001.<sup>17</sup>

The purpose of this requirement is to ensure that Inmarsat becomes an independent commercial entity with a pro-competitive ownership structure.<sup>18</sup> The ORBIT Act anticipates that independence will be achieved, in part, through the substantial dilution of the aggregate ownership in Inmarsat held by former Inmarsat signatories.<sup>19</sup> Thus, our consideration of Inmarsat's request for extension, as in our recent *New Skies Satellites, N.V.* ("*New Skies*") decision, must be based upon whether the proposed extension would serve to achieve the underlying purpose of the requirement for an IPO.<sup>20</sup>

7. We conclude that granting an extension to Inmarsat to conduct its IPO is consistent with and will facilitate the purposes of the ORBIT Act. We grant the requested nine-month extension for the following reasons.

8. First, Inmarsat has demonstrated diligence in preparing for a successful IPO. Inmarsat is taking measured steps toward this end, including engaging investment bankers and preparing legal and regulatory documents necessary for filing in the United Kingdom and United States. It is relying on the advice of its investment banker as to necessary preparations for and timing of an IPO. Inmarsat began

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<sup>16</sup> *Id.* at 7 and Motient Reply at 2.

<sup>17</sup> Pub. L. 106-180, § 621(5)(A)(ii).

<sup>18</sup> *See* Pub. L. 106-180, § 621(2), which provides, in part:

(2) INDEPENDENCE.—The privatized successor entities and separated entities of INTELSAT and Inmarsat shall operate as independent commercial entities, and have a pro-competitive ownership structure. The successor entities and separated entities of INTELSAT and Inmarsat shall conduct an initial public offering in accordance with paragraph (5) to achieve such independence. Such offering shall substantially dilute the aggregate ownership of such entities by such signatories or former signatories. In determining whether a public offering attains such substantial dilution, the Commission shall take into account the purposes and intent, privatization criteria, and other provisions of this title, as well as market conditions.

<sup>19</sup> *See* Pub. L. 106-180, § 621(2).

<sup>20</sup> *In the Matter of New Skies Satellites, N.V., Request for an Extension under Section 623(1) of the ORBIT Act*, Memorandum Opinion and Order, 2000 WL 867581 (F.C.C.), FCC 00-234 (June 30, 2000) ("*New Skies*").

taking these steps shortly after passage of the ORBIT Act.<sup>21</sup>

9. Second, Inmarsat's actions are reasonably related to its goal to become more attractive to potential investors. Inmarsat has demonstrated "relevant business factors" that will impact both the success and timing of an IPO.<sup>22</sup> Inmarsat is acting reasonably in internally restructuring and completing certain business development tasks in order to make the IPO attractive to investors. It has negotiated contracts for its next-generation global mobile system and streamlined itself in order to cut costs and make its operation more efficient. Moreover, Inmarsat is in the process of restructuring its board of directors by the end of the year in order to comply with the ORBIT Act requirements. Inmarsat now anticipates that the IPO will be conducted in the first half of 2001.<sup>23</sup>

10. The evidence demonstrates that Inmarsat is exercising reasonable business judgment in preparing an IPO that will achieve the goals of the ORBIT Act as well as support the business needs of the company. By giving Inmarsat more time to position itself so that it is more attractive to investors, there is a greater likelihood of a successful IPO resulting in substantial dilution, as required by the ORBIT Act. Conducting an IPO before the necessary preparations have been completed could undermine the ORBIT Act goal of substantial dilution. On the other hand, entry of a strong independent Inmarsat -- through capital infusion and shareholder dilution -- will contribute to a more competitive ownership structure.

11. In view of the above, we find that a nine-month extension of the IPO deadline, to July 1, 2001, is justified. Inmarsat should make all good faith efforts to conduct its IPO as soon as practicable based on market conditions and relevant business factors. A nine-month extension will not only allow Inmarsat time to adequately ready itself for its IPO, but it will provide reasonable flexibility for Inmarsat to time entry into the market at a time that will result in "substantial dilution" of its aggregate ownership as required by the ORBIT Act.<sup>24</sup> Inmarsat has incentive to move forward to assure its access to the U.S. market.<sup>25</sup>

12. Finally, we disagree with Motient that, in the event the Commission grants the extension request, it should deny any applications from Inmarsat and from any entity proposing to access Inmarsat, to provide domestic mobile satellite services ("MSS"), until Inmarsat conducts the required IPO. The ORBIT Act specifically provides for the authorization of services pending an IPO, provided other requirements in the ORBIT Act are satisfied.<sup>26</sup> Further, we disagree with Motient that Inmarsat effectively remains an IGO

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<sup>21</sup> We reject Motient's contention that Inmarsat should have begun these preparations in anticipation of passage of the ORBIT Act. Clearly, there was no requirement under U.S. law for Inmarsat to take such actions prior to passage of the Act.

<sup>22</sup> Pub. L. 106-180, § 621(5)(A)(ii). *See also, e.g., In the Matter of New Skies Satellites, N.V., Request for an Extension under Section 623(1) of the ORBIT Act*, Memorandum Opinion and Order, FCC 00-234 (June 30, 2000) ("New Skies").

<sup>23</sup> *See ex parte* letter from Inmarsat Ventures Ltd. Counsel, Kelly Cameron of Powell, Goldstein, Frazer & Murphy LLP, to Magalie Salas, Secretary, Federal Communications Commission, September 13, 2000, at 1.

<sup>24</sup> Morgan Stanley advises that "[a]n IPO's success is critically dependent on favorable market conditions" and "it is impossible to predict market conditions in the first half of 2001." Inmarsat Request, Attachment A at 3.

<sup>25</sup> *See* Pub. L. 106-180, §§ 601(b) & (c), 621, and 624.

<sup>26</sup> *Id.* at §§ 601(b)(1)(D).

absent dilution of former Signatory ownership and new non-Signatory investment. While Inmarsat must comply with ORBIT Act requirements to serve the U.S. market, it clearly is not now an IGO. Inmarsat is a private United Kingdom company having a fiduciary board of directors and no privileges and immunities.

13. Accordingly, IT IS ORDERED, pursuant to Sections 621(2) and 621(5) of the Open-Market Reorganization for the Betterment of International Telecommunications Act, Pub. L. 106-180, 114 Stat. 48 (2000), §§ 621(2) and 621(5), that the Inmarsat Ventures Ltd., request for an extension of the October 1, 2000 deadline to conduct an IPO IS GRANTED, and the deadline for Inmarsat Ventures, Ltd. to conduct its IPO consistent with the ORBIT Act is July 1, 2001.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary